

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
Clarification of the Commission's	)	WC Docket No. 04-405
Rules and Policies Regarding	)	
Unbundled Access to Incumbent	)	
Local Exchange Carriers' Inside	)	
Wire Subloop	)	
Petition for Declaratory Ruling of	)	
Cox Oklahoma Telcom, L.L.C.	)	

**COMMENTS OF THE REAL ACCESS ALLIANCE**

**Introduction**

The Real Access Alliance (the "RAA")<sup>1</sup> respectfully submits these Comments in response to the Petition for Declaratory Ruling (the "Petition") of Cox Oklahoma Telcom, LLC ("Cox"). The RAA takes no position on the merits of Cox's request, but asks that in any ruling on the Petition the Commission avoid ambiguous or unclear language that might infringe on the property rights of building owners. The RAA also asks that the Commission clarify that, regardless of the scope of any rights a competitive local exchange carrier ("LEC") might have under the Communications Act and the Commission's rules to obtain access to inside wire subloops or other facilities owned by an incumbent LEC, such rights do not grant Cox or any other competitive LEC the right to enter, occupy, or install its facilities in a multiple tenant environment ("MTE") without the prior consent of the owner of the MTE.

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<sup>1</sup> A description of the RAA and its members is attached hereto as Exhibit A.

## Discussion

Cox seeks a ruling from the Commission stating that: “(1) competitive LECs have a right to direct physical access to incumbent LECs’ inside wire subloops in MTEs; (2) this right allows competitive LECs to obtain direct access to inside wire subloops at incumbent LECs’ terminal blocks in MTEs; and (3) this right exists regardless of any state law or regulation that would otherwise limit it.” Petition at i. The issues raised in the Petition arise under Section 251 of the Communications Act and related rulings, and relate to the authority of the Commission and the rights and duties of LECs. We should state at the outset that the RAA has never objected to the Commission’s unbundled network element rules or to the concept that competitive LECs may provide services to customers inside buildings by using the facilities of other carriers. The real estate industry supports competition for the provision of telecommunications services.<sup>2</sup> But owners of real estate are very sensitive to the possibility that third parties might rely on Commission rulings to claim the right to physically enter and occupy their property without their prior consent; the RAA has made the constitutional, jurisdictional, and policy issues raised by such claims clear to the Commission on numerous occasions.<sup>3</sup>

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<sup>2</sup> See, e.g., *In the Matter of Promotion of Competitive Networks*, Joint Comments of Building Owners and Managers Association, *et al.*, WT Docket No. 99-217 (filed Aug. 27, 1999), at 4-26; *Telecommunications Services -- Inside Wiring, Customer Premises Equipment*, CS Docket No. 95-184, Comments of Building Owners and Managers Association, *et al.* (filed April 17, 1996), at 4.

<sup>3</sup> See, e.g., *In the Matter of Promotion of Competitive Networks*, Further Comments of the Real Access Alliance, WT Docket No. 99-217 (filed Jan. 22, 2001), at 4-52; *In the Matter of Promotion of Competitive Networks*, Joint Comments of Building Owners and Managers Association, *et al.*, WT Docket No. 99-217 (filed Aug. 27, 1999), at 33-48; *Telecommunications Services -- Inside Wiring, Customer Premises Equipment*, CS Docket No. 95-184, Comments of Building Owners and Managers Association, *et al.* (filed April 17, 1996), at 5-36.

In this case, the RAA's concern is that the term "direct physical access" could be construed to include the right to enter a building and install facilities on the premises without the consent of the property owner. It seems clear from the context of the Petition that Cox assumes that the property owner has given its consent to Cox's presence, but a careless or creative interpretation of any resulting Commission order, particularly an order using the term "direct physical access," could lead to unintended results. Consequently, the RAA submits these comments simply to remind the Commission of the possibility that the Commission's ruling on the Petition could be misconstrued, and to ask the Commission to bear that possibility in mind in drafting its ruling.

The Petition does not request the right to obtain physical access to buildings, nor does it refer in any way to the rights of property owners or the actions of property owners. Cox's request is limited to the right to obtain access to wiring that is owned by an ILEC and happens to be located in an MTE. To support its position, Cox relies primarily on two Commission orders: *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) (the "*Triennial UNE Order*") and *Petition of WorldCom et al.*, Memorandum Opinion and Order, 17 FCC Rcd 27039 (2002) (the "*Virginia Arbitration Order*"). Both the *Triennial UNE Order* and the *Virginia Arbitration Order* are concerned with relations between carriers and the interpretation of Section 251 of the Act. Not surprisingly, these orders do not purport to grant rights regarding access to privately-owned buildings. In fact, the *Triennial UNE Order* specifically states that "[o]wners of multiunit premises have no nationwide obligation to provide competitive LECs reasonable and nondiscriminatory access to their premises on the

same terms that the incumbent LEC has access.” *Triennial UNE Order* at ¶ 352, n. 1058.<sup>4</sup> Thus, we are confident that Cox’s Petition is limited to the issue of access to wiring, and only a careless or ill-informed reader would confuse or conflate that issue with the question of access to premises. Nevertheless, because of the importance of this issue to property owners and the potential ramifications under the Fifth Amendment, the RAA is compelled to urge the Commission to draft its order with due care.

Indeed, the Commission has addressed the issue of access to premises elsewhere.<sup>5</sup> In the *Competitive Networks Order*, the Commission was very respectful of the property rights of building owners, and conscious of the limits of the Commission’s jurisdiction. The RAA submitted extensive comments on those issues in that proceeding.<sup>6</sup> The Commission took a number of actions designed to promote competition in MTE’s, but it imposed no forced access obligations on property owners. Among other measures, the Commission adopted 47 C.F.R. § 64.2500, which forbids telecommunications providers, but not property owners, from entering into exclusive agreements to serve commercial buildings. *Competitive Networks Order* at ¶ 35.

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<sup>4</sup> In fact, building owners have no obligation under federal law to provide incumbent LECs with access to their buildings, either.

<sup>5</sup> *Promotion of Competitive Networks in Local Telecommunications Markets*, First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, 15 FCC Rcd 22,938 (2000) (“*Competitive Networks Order*”).

<sup>6</sup> See generally *In the Matter of Promotion of Competitive Networks*, Further Reply Comments of the Real Access Alliance, WT Docket No. 99-217 (filed Feb. 21, 2001); *In the Matter of Promotion of Competitive Networks*, Further Comments of the Real Access Alliance, WT Docket No. 99-217 (filed Jan. 22, 2001); *In the Matter of Promotion of Competitive Networks*, Joint Reply Comments of Building Owners and Managers Association, *et al.*, WT Docket No. 99-217 (filed Sep. 27, 1999); *In the Matter of Promotion of Competitive Networks*, Joint Comments of Building Owners and Managers Association, *et al.*, WT Docket No. 99-217 (filed Aug. 27, 1999).

The Commission also ruled that Section 224 of the Communications Act applies to pathways inside buildings, but only to the extent that a utility “could voluntarily provide access to a third party and would be entitled to compensation for doing so.” *Competitive Networks Order* at ¶ 87. And the Commission took a number of actions regarding the location and movement of the telephone demarcation point, generally intended to reduce the ability of ILECs to obstruct competitive access, by giving building owners more control over the demarcation point and inside wiring. *Id.* at ¶¶ 50-58.

In its discussion of the demarcation point, the Commission noted that “where the building owner chooses to locate the demarcation point at the MPOE, responsibility for installation and maintenance may be contracted out to the incumbent LEC, a competitive LEC, or other third party, but control, *including determining terms of access*, would lie with the building owner.” *Id.* at ¶ 57 (emphasis added). This reference to “terms of access” presumably includes both access to the wiring and to the premises.

In any event, the *Competitive Networks Order* did not impose any limits on a building owner’s right to restrict physical entry by telecommunications providers. In the Further Notice of Proposed Rulemaking accompanying the *Competitive Networks Order*, the Commission noted that it was refraining from imposing any kind of nondiscriminatory access requirement at that time, and sought comment on various additional questions related to that issue. *Competitive Networks Order* at ¶ 126. The Commission has taken no further action to date in that docket. Consequently, the instant Petition should not be read as presuming, requiring, or requesting any Commission action that would establish a right of access to MTEs.

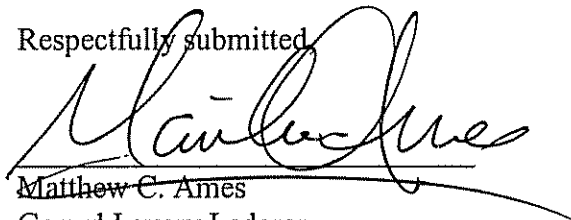
Finally, we note that in the Petition Cox lists examples of states that have “ruled in favor of direct access,” including the State of New York. Petition at 1. The New York Public Service

Commission's experience on this issue is instructive, because New York has recognized the same concerns regarding property rights that this Commission did in the *Competitive Networks Order*. Attached as Exhibit B is the text of the NYPSC's VIP Building Connection Product Task Force Report, which was prepared in part to develop common ground among competitive LECs, the incumbent LEC, and building owners. Among other things, the Task Force developed "an accepted industry practice of 'reciprocity' – whichever carrier is located in a building will work cooperatively with any other carrier given permission by the landlord to locate in common areas." The Report also notes that under FCC regulations and New York law telephone companies do not have any right to occupy space in an MTE without the property owner's consent.

## CONCLUSION

For all the foregoing reasons, the RAA asks that the Commission clarify that, regardless of the scope of any rights a competitive LEC might have to obtain access to inside wire subloops or other facilities owned by an incumbent LEC, such rights do not grant Cox or any other competitive LEC the right to enter, occupy, or install its facilities in any MTE without the prior consent of the owner of the MTE.

Respectfully submitted,



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December 6, 2004

## EXHIBIT A

### DESCRIPTION OF THE COMMENTERS

The Real Access Alliance (“RAA”) is an *ad hoc*, unincorporated coalition of trade associations whose members include the Building Owners and Managers Association International, the Institute of Real Estate Management, the International Council of Shopping Centers, the National Apartment Association, the National Association of Industrial and Office Properties, the National Association of Realtors, the National Association of Real Estate Investment Trusts, the National Multi-Housing Council, and The Real Estate Roundtable. The RAA was formed to encourage free market competition among telecommunications companies for services to tenants in commercial and residential buildings, and to safeguard the constitutional property rights of America's real estate owners.

The members of the RAA are:

- The Building Owners and Managers Association (BOMA) International is an international federation of 108 local associations. BOMA International's 19,000 members own or manage more than 9 billion square feet of downtown and suburban commercial properties and facilities in North America and abroad. The mission of BOMA International is to advance the performance of commercial real estate through advocacy, professional competency, standards and research.
- The Institute of Real Estate Management (“IREM”) educates real estate managers, certifies the competence and professionalism of individuals and organizations engaged in real estate management, serves as an advocate on issues affecting the industry, and enhances and supports its members' professional competence so they can better identify and meet the needs of those who use their services. IREM was established in 1933 and has 10,000 members across the country.
- The International Council of Shopping Centers (“ICSC”) is the trade association of the shopping center industry. ICSC now has over 50,000 members worldwide in the United States, Canada, and more than 70 other countries, representing owners, developers, retailers, lenders, and all others having a professional interest in the shopping center industry. ICSC's approximately 45,000 United States members represent approximately 44,000 shopping centers in the United States.
- The National Apartment Association (“NAA”) has been serving the apartment industry for 60 years. It is the largest industry-wide, nonprofit trade association devoted solely to the needs of the apartment industry. NAA represents approximately 29,597 rental housing professionals holding responsibility for more than 4,911,000 apartment households nationwide.
- The National Association of Industrial and Office Properties (“NAIOP”) is the trade association for developers, owners, and investors in industrial, office, and related



commercial real estate. NAIOP is comprised of over 9,500 members in 46 North American chapters and offers its members business and networking opportunities, education programs, research on trends and innovations, and strong legislative representation.

- The National Association of Real Estate Investment Trusts (“NAREI”) is the national trade association for real estate investment trusts (REITs) and publicly-traded real estate companies. Its members are REITs and other businesses that own, operate, and finance income-producing real estate, as well as those firms and individuals that advise, study and service those businesses.
- The National Association of Realtors (“NAR”) is the nation’s largest professional association, representing more than 720,000 members. Founded in 1908, the NAR is composed of residential and commercial realtors who are brokers, salespeople, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry. The association works to preserve the free enterprise system and the right to own, buy, and sell real property.
- The National Multi-Housing Council (“NMHC”) represents the interests of the larger and most prominent firms in the multi-family rental housing industry. NMHC’s members are engaged in all aspects of the development and operation of rental housing, including the ownership, construction, finance, and management of such properties.
- The Real Estate Roundtable (“RER”) provides Washington representation on national policy issues vital to commercial and income-producing real estate. RER addresses capital and credit, tax, environmental, technology and other investment-related issues. RER members are senior executives from more than 200 U.S. public and privately owned companies across all segments of the commercial real estate industry.

**EXHIBIT B**

**VIP Building Connection Product  
Task Force Report**

**May 30, 2002**

**Case 00-C-1945 - Proceeding on Motion of the Commission to Consider Cost Recovery by Verizon NY, New York, Inc. fka New York Telephone Company and Modification of Performance Regulatory Plan Under Merger Standards and to Investigate the Future Regulatory Framework**

## **Background**

### **Procedural History**

The Joint Proposal Concerning Verizon NY Incentive Plan (VIP) for New York included an agreement that the signed parties can and should share best industry practices in a number of areas to encourage competition and enhance cooperation between and among industry participants.<sup>7</sup> To accomplish this, Verizon NY New York (Verizon NY ) agreed to cooperate in a New Products and Services Task Force that would address several competitive issues, one of which being the development of products for the enhancement of carriers' access to buildings, where legally and technically feasible.

In the Order adopting the VIP, the Commission approved the convening of the task forces under the oversight of the Office of Hearings and Dispute Resolution.<sup>8</sup> In accordance with the VIP, the task force would report its findings, agreements and recommendations to the Commission by June 1, 2002. On March 11, 2002 the Department convened a meeting of all interested parties to establish working groups and schedules. It was decided at that meeting that the working group that would consider building access issues would be called the Building Connection Product Task Force. The group determined that it would explore the following issues:

- Entrance facilities.
- Equipment space.
- Right of way/right of entry.
- Sharing of facilities/space.
- Terms of building access.
- Virtual building access.

### **Task Force Participants**

The Building Connection Product taskforce included representatives of: AT&T; Wolf, Block, Schorr & Solis-Cohen LLP representing Con Edison Communications, LLC; Verizon NY; MFN; the Real Estate Board of New York; MetTel; Allegiance Telecom; LeBouef, Lamb, Greene & MacRae; WorldCom; NYS Attorney General; Time Warner Telecom (TWTC); NYS Department of Public Service; Focal Communications; Community Housing Improvement Program Inc.; RCN; XO Communications; and, Bridgecom. See Attachment 8 for a listing of representatives.

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<sup>7</sup> Joint Proposal Concerning Verizon NY Incentive Plan for New York, submitted to the Commission by Verizon NY on February 8, 2002, page 3.

<sup>8</sup> Case 00-C-1945, Order Instituting Verizon NY Incentive Plan, issued February 27, 2002, page 33.

### **Taskforce Guidelines**

It was agreed that this taskforce would follow the New York Task Force Working Group guidelines developed for use by all the separate taskforces. It is included as Attachment 1.

### **Purpose and Workplan**

The parties agreed that the purpose of the Building Connection Product Taskforce was to facilitate the development of service offerings or revised procedures that would provide carriers the ability to access customers in multi-tenant buildings through an alternative connection method to direct access, if legally permissible and technically feasible. It was agreed that the taskforce would meet periodically and produce a written report summarizing agreements reached that will provide the framework necessary for the development of such a service offering or revised procedures.

## **Discussion**

### **Task Force Activity**

From the outset, the participants of this task force recognized that development of any building access products or revised procedures must consider the legal aspects regarding such access, rights of way issues and space requirements within multi-tenant buildings. It was generally agreed that the parties would avoid legal arguments and focus on the development of operational solutions to the concerns raised by the participants. Parties were assured that the development of such products, should they require Commission approval, would include adequate opportunity for legal arguments to be made and fully explored.

Early in the proceedings, the CLECs raised concerns regarding Verizon NY's presence in buildings and the existence of agreements Verizon NY had with building owners governing its access and control of space within a building. The Task Force reviewed current FCC regulations and applicable New York law. Participants learned from Verizon NY and representatives of the building owners that written agreements exist for only a limited number of buildings and that these agreements, when they exist, typically consist of a paragraph or two. Verizon NY indicated that it relies on its tariff in instances where it does not have any sort of separate written agreement with a landlord dealing with access. The tariff conditions the requirement to provide service on being afforded access to the premises being served (this is similar to the tariff provisions of other carriers). In any case, consistent with the FCC rules regarding access to commercial buildings, the agreements do not provide Verizon NY with any exclusive right to access or place equipment in a building. It was also noted, that neither statute nor franchise provides Verizon or any other non-cable television carrier with any right to occupy space in a multi-tenant building.

Verizon NY also stated that it would not prohibit access by a competitor who has permission by the building owner to access common space within a building that Verizon NY may or may not control. Verizon NY issued a nation-wide FLASH report to all field personnel to clarify its policy on such access (which appears as Attachment 6 to this report). At the request of the parties, Verizon NY also provided the group with the latest version of the Conduit Licensing Agreement that sets forth Verizon NY's policy for leasing space within its

conduit to competitors. The provision of the Conduit Licensing Agreement, as well as the discussion by the participants of duct and conduit issues, served to provide a better understanding of these issues and clarified some misconceptions.

TWTC's initial proposal for alternative building access sought to provide fiber connectivity between its switch (or collocation presence within a Verizon NY central office) and the customer premise. Several scenarios were proposed that involved fiber transport (CLEC or Verizon NY provided) and leasing from Verizon NY or having Verizon NY virtually provision some or all components within the building necessary to complete the connection with the customer. Those components included any electronic equipment placed in common areas and Verizon NY owned house and riser. TWTC sought to maximize its control in the provisioning and repair of such arrangements. Verizon NY's counter offer to TWTC was to explore existing services it provides that may be modified to meet some or all the needs of TWTC.

AT&T's initial concerns regarding access to buildings concentrated on: facilities from the property line into the building (including but not limited to conduit); risers and connections within a building; and, equipment space. In the arrangements proposed by AT&T, Verizon NY would provision necessary components in a "virtual" or agency arrangement and AT&T would maintain control over provisioning and repair. In addition, while Verizon NY has not agreed to construct new facilities for exclusive use by CLECs, to the extent such facilities exist and are spare, Verizon NY is willing to pursue unbundling with any requesting CLEC.

The several proposals and counter proposals explored by the task force are discussed in more detail below and are compared in a chart in Attachment 2.

## **Verizon NY Proposal**

### IntelliLight Broadband Transport

Discussions focused on Verizon NY's existing federally tariffed Ring Services. A current offering, IntelliLight® Broadband Transport (IBT), provides Verizon – East customers with a point to point, SONET based Special Access service, provisioned at rates of 155.52 Mbps for OC3/3c, 622 Mbps for OC12/12c or 2.4 Gbps for OC48/48c between two customer premises. It can also connect a customer's premises to a wire center where it connects with another service of equal speed.

As a result of discussions with the CLECs regarding these existing services, Verizon NY agreed to consider the development and tariffing of a new SONET-based product. The possible product enhancement for multiplexed IBT would allow

IBT OC3, OC12 and OC48 point to point circuits to be available across the Verizon-East footprint, dependent on SONET facility availability. This service enhancement initially being considered for deployment in connection with the New York VIP, would likely be tariffed throughout Verizon – East if the decision to proceed is made. The enhancement will add the capability for Verizon customers to order IBT OC3, OC12 and OC48 facilities as "Basic" or "w/FPD" (fiber path diversity) from their premises multiplexer and/or wire center multiplexing hub location. Customers will have the ability to interconnect multiple lower speed services at a premises and/or wire center node to an IBT OC3, OC12 or OC48 transport facility. This will allow inter-working with lower speed IntelliLight Dedicated SONET Ring

(IDSR) services, the IntelliLight Entrance Facility (IEF), IBT product sets, as well as non-IntelliLight DS1 and DS3 offerings.

This enhancement would be implemented as a federally tariffed Access Service offering. Additional information is provided in the attachments to this report: Attachment 3 is a diagram showing this possible new service; Attachment 4 provides a detailed service description of the possible service; and, Attachment 5 is a matrix which compares the service characteristics of this possible service with two existing SONET-based products.

#### Comments on Verizon NY Proposal

The initial presentations of TWTC and AT&T described serving arrangements that these carriers desired. In response, Verizon NY noted its belief that some of its existing products may be able to satisfy at least some of their needs, without raising new legal and policy issues that must be resolved. Verizon NY noted that both its existing Unbundled Network Elements tariff and its SONET Ring services might meet some or all of the needs of these carriers. Verizon NY has indicated its willingness to carry on further discussions with individual carriers regarding the possible development of other new services consonant with its interest in being a provider of telecommunications services rather than a supplier of equipment for its competitors.

While Verizon NY believes that both its existing services and the possible new product discussed in Attachments 3, 4 and 5 may go a long way in satisfying the expressed needs of the carriers, some Task Force carrier participants do not believe that the proposed product fully satisfies their needs for building access in cases where carriers do not have direct access in place. The following information identifies restrictions and/or limitations identified by CLECs with each product currently offered and the proposed enhancement by Verizon NY as an option for building access:

##### Existing IDSR

- Restricts terminal locations to customer and Verizon NY nodes only.
- Requires 3 nodes on ring (1 customer and 2 Verizon NY nodes).
- Does not provide for intra-building service.
- Does not provide for optical handoff/interconnection to CLEC.
- Does not allow for CLEC control for provisioning /maintenance.

##### Existing IEF

- Does not allow for mid-span meet for fiber access.
- Does not provide for new fiber build, fiber must be existing.

##### Existing IBT

- Does not provide for dedicated fiber, only provides for shared fiber.
- Does not provide for new fiber only provides facility on existing fiber.
- Does not allow for flexibility of variable bandwidth capability.
- Does not allow termination or interconnection at CLEC location due to shared facilities.

##### Possible enhancement – IBT w/NODE

- Does not provide for dedicated fiber, only provides for shared fiber.
- Does not provide for new fiber only provides facility on existing fiber.

## **CLEC Proposals**

### **Meet Point SONET Ring**

The Meet Point SONET Ring product proposal is a dedicated SONET ring that is co-provisioned by the CLEC and Verizon NY. The product would allow the CLEC to provision fiber and electronics on the CLEC side of the ring and Verizon NY would provide fiber and electronics on the Verizon NY side of the ring. A list of "approved" electronics would have to be developed by Verizon NY to ensure "standard" compatibility. Requests by the CLEC to use electronics that are not on the "approved" list would require negotiations with Verizon NY on an individual case basis. The carriers would splice into each other at a mutually agreeable location. The location could range from a CLEC's collocation cage to the manhole out side of the end user building. Verizon NY would not deny a request for slice points that are technically feasible.

The initial and subsequent configuration requirements i.e. the placement and installation of card and tail circuits to end user locations, would be specified by the CLEC. Verizon NY electronics would be placed in the common area if allowed by building owners. Where not permitted by owner, the CLEC and/or end user(s) would arrange for space and power.

Ongoing provisioning of circuits would be managed by the CLEC for any services/cards that were pre-installed on the Verizon NY side of the ring. The CLEC would also be responsible for surveillance and troubleshooting. The CLEC would submit troubles to Verizon NY on a dispatch/time and materials basis.

### **Product Benefits:**

- CLEC control of the scope of Verizon NY required outside plant construction/provisioning.
- CLEC control of ongoing provisioning of services that are preinstalled allowing for increased customer responsiveness.
- CLEC is responsible for surveillance, allowing for increased ability to respond to customer and status troubles.
- Security for both Verizon NY and CLEC of other network services/elements

### **Intra-building Circuits** (See Attachment 7)

The Intrabuilding Circuit product proposal is a dedicated facility extension that can be either an optical or coaxial cable extension within a building that is requested by a CLEC. The product will allow a CLEC facility access within a building to reach customers where direct access is in place within a building. Verizon NY will provide the facility between points specified by the CLEC design features. Verizon NY will provide diverse path if requested by the CLEC and where technically feasible. The origination point can be at a CLEC distribution panel or equipment location within a building as specified by the CLEC design request. Verizon NY will provide intrabuilding circuit on existing or new facilities as needed and where technically feasible. CLEC electronics would be placed on at least one end of the circuit.

**Product Benefits:**

- CLEC ability to reach customers within a building where space, including riser, is limited.
- CLEC access to more than one customer with a building.

**Meet Point Fiber Connection**

The Meet Point Fiber Connection product proposal is a dedicated optical fiber facility that is provided by Verizon NY as requested by a CLEC that provides building entrance capability. The meet point for fiber connection will be at a CLEC specified technically feasible splice point outside of the building, including manholes. Verizon NY will install and or terminate cable within the building as specified by the CLEC. Verizon NY will provide the fiber facility according to the CLEC design specifications. Fiber strands will be dedicated for CLEC use.

**Product Benefits:**

- CLEC building entrance access where space and entrance structure is limited.
- Provides CLEC with access to existing fiber facilities that may have excess or underutilized capacity
- CLECs obtain access to customer within building when CLECs have facilities at or near the public right of way.

**Comments on the CLEC Proposals**

Verizon NY has indicated that it is unwilling to offer either virtual or physical collocation arrangements at third party premises, as it believes is the case with each of the three CLEC proposed products described above. In Verizon NY's view, each of the CLEC product proposals ignores the fact that Verizon NY does not have any superior legal right regarding access to buildings than any other carrier. Additionally, Verizon NY's access to multi-tenant buildings is dependent upon the consent of the landlord and the provision, by either the landlord or the Verizon NY customer, of the space needed to provide service. In Verizon NY's opinion, there is simply no way that other carriers can somehow piggyback upon Verizon NY's presence in a particular building if the intent is to avoid obtaining the consent of the landlord to their presence in the landlord's building. In addition, Verizon NY believes its business is the provision of services to its retail and wholesale customers through facilities that it owns and controls. Verizon is unwilling to agree to arrangements whereby its role becomes that of a supplier of equipment that its competitors can then use to provide service. Finally, Verizon NY does not want to be "stuck" between CLECs and premise owners, a position that Verizon NY believes would certainly enmesh the company in contentious legal challenges concerning private property rights.

**Building Owner Concerns**

Building owners understand the need to provide tenants with competitive telecommunications choices. Offering an array of telecommunications providers enhances the value of their buildings and attracts high quality tenants. In fact, research documents that the vast majority of office buildings in New York offer their tenants several choices of



telecommunications service providers. The highly competitive commercial office market demands no less.

The Task Force has focussed on the technical product development of a service that would allow carriers to access customers in multi-tenant buildings through an alternative connection provided by Verizon NY. There are substantial legal and operational issues of concern to building owners in such a proposal. Building owners have the right and responsibility to control access to and use of space within and through any building they own and operate. Further, building owners owe existing tenants the right of quiet enjoyment, i.e. a safe and productive environment in which to live or work. In an effort to provide tenants choice while preserving quiet enjoyment, building owners have developed model access agreements for consideration by any certificated provider seeking to use space in or on a building to serve their end users. Further, building owners have engaged in significant educational programs to facilitate access through a series of best practices.

Building owners believe a number of valuable lessons and conclusions have resulted from the Task Force. First, the Report and Task Group, at every stage, acknowledged the constitutionally protected property rights of building owners when dealing with the issue of building access. Secondly, the Task Force settles the oft-referenced misunderstanding in the marketplace that there has been some type of alliance between building owners and the incumbent local exchange company to thwart competitive choice. Nothing could be further from the truth, and it can only be hoped that this report will put that misunderstanding to rest.

## Conclusion

Through the work of the Task Force, an increased understanding was generated for the concerns of differing stakeholders in regards to multiple carriers providing service in multi-tenant buildings. At almost every point, it was acknowledged that consideration of the property rights of building owners makes them key decisionmakers in regards to the placement of facilities by any carrier to service its customers, including the proposed Verizon NY product offering which may address some carriers' building access needs.

One of the key learnings was that agreements regarding access and control of space within buildings did not exist between Verizon NY and building owners for many older buildings. Under those agreements that do exist, Verizon NY does not have any exclusive right to place equipment with a building. Verizon NY memorialized this in its FLASH report to field personnel. Out of this knowledge, participants developed an accepted industry practice of "reciprocity"-- whichever carrier is located in a building will work cooperatively with any other carrier given permission by the landlord to locate in common areas. Another achievement of the Task Force came out of the dialogue on the leasing of conduit in manholes and entrance facilities to buildings by carriers from Verizon NY. There is increased understanding of Verizon NY's provision of available space and also associated intra-building facilities to CLECs. The exchange of information on process and procedure clarified CLECs' understanding of when such facilities will be made available. Additionally, a new escalation process was established for CLECs to request Verizon NY to reevaluate the status of available conduit and related facilities at a specific location.

Lastly, the participants were able to agree on the merits of a proposal by Verizon NY to provide a SONET-based broadband transport offering. This proposed offering does not meet all of the carriers' identified needs, but it may provide some increased ability for CLECs to serve customers in a multi-tenant building that otherwise would not be possible. However, many of the participants in the Task Force recommend that the Commission encourage Verizon NY to file a tariff for the provision of the product which is discussed in high level terms in this report.

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